

Board of Supervisors, December 16, 2014 – Mark E. Smith, Garden Valley, Mt Murphy Bridge

As you know, I have been testifying before you on this project, revealing how it has been manipulated, how participants, the public, and the Board has been lied to, and to date you have taken no action on this evidence.

As you know, you have unindicted felons still employed in senior management positions in the department of transportation. This is in connection with the contract fraud totaling over one million dollars that resulted in the resignation of the CAO and her assistant.

I now refer to the so-called “corridors” and the Mt Murphy Road screening criteria document, which the county fought so hard to keep secret.

The Stakeholders, and the public through them, had no input in the key performance measures, and no input in the grading of each option/measure. In other words, the entire exercise was predetermined from the beginning by the county and CH2M Hill. We weren't even allowed to discuss Option 4 or Option 9 at all...those were “ruled out” and “would not be considered”. I tried repeatedly to get a vote on a formal motion from the stakeholders, but no one would vote. The stakeholders did not agree and my claim they did is false.

Having participated in this process from beginning to end, investigated the claims by the “engineers” and found many to be false, experienced Delphi manipulation before, during and after each meeting, and found the so-called “official” meeting summaries to be little more than propaganda, it is little wonder that felons run the department.

What I still don't understand is why do you the Board allow this behavior to continue? Do you realize that none of the so-called options will save the bridge, as you directed? Do you realize we have not been allowed to discuss any option that would save the bridge? Did you know the county and CH2M Hill refuse to even present a combination repaired Mt Murphy Bridge for pedestrian/bikes and new narrow option traffic only bridge for approval? Even though it's an historic bridge?

But, according to the Senior Bridge engineer "It's just another steel span bridge. There are hundreds of them".

This project is corrupt in its present form. If it is to proceed, it must do so under entirely new management, both county and contractor.

I believe we should go back to the drawing board with public participation and find a solution that saves the bridge, period.

Furthermore, we need to clean house at county DOT. No more felons. No more co-conspirators. No more lies. It's time for open, honest collaboration between government and citizens. Honor CPRA's and make the process absolutely transparent and accountable.

Until we do, this bridge will stand for tyranny instead of freedom. Is that what you want for future generations?

Attachments: Total of 2

1. Mt Murphy Speech (2 pages)
2. Bridge Documents and Contract Fraud (8 pages)

 12-16-2014

CROWDWRITE Public Input SOFTWARE FOR JANUARY Public Meeting? 2
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Bridge Components

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“When the history of our time is written posterity will know us not by a cathedral or temple, but by a bridge.”

- Montgomery Schuyler, 1877,
writing about John Roebling's Brooklyn Bridge

Mt. Murphy Bridge 'demise' a foregone conclusion?

By Rebecca Murphy

MANAGING EDITOR

After nearly two years of attending meetings on the auspices of providing "public input" into the demise or reconstruction of the Mt. Murphy Bridge in Coloma, Garden Valley resident Mark E. Smith became a stakeholder representative for the Divide and skeptical of the process and its potential result.

At a public meeting Smith held at the Garden Valley Fire Station 51 last Thursday, he told a small group of approximately six people that there is and has always been a preplanned outcome.

"In my opinion, they want to destroy the Mt. Murphy Bridge," said Smith, adding that in more than one alternative for a new bridge the Coloma Grange also could be destroyed. Both structures date back 100 years and are historical to the area.

"I attended the first meeting (Feb. 7, 2013) out of concern for the bridge and concern for private property," Smith said. "There were approximately 100 people at that meeting and 70 comments generated. The next thing I knew, there was an article in the Mountain Democrat (Feb. 12, 2014) with the headline 'County eyes new bridges.' There was information in that article that I never was told, and as a stakeholder you would think I would have known."

In the article written by Chris Daley, the article states that El Dorado County Board of "Supervisors voted unanimously (Feb. 4) to

accept the DOT recommendation to 'dismiss' any further study of rehabilitating the Mt. Murphy Bridge and to proceed on a contract with CH2MHill, an engineering consultant that has worked with the county several times."

Indeed, it would appear Smith is correct that the county would like to destroy the bridge, which could ultimately result in the destruction of the Coloma Grange, depending on which "alternative" is officially selected.

At the first meeting, Smith said he asked about the rerouting of Highway 49 and whether it would follow the bridge. An engineer was brought into the second stakeholders meeting to report that Highway 49 would not follow the bridge, but Smith said he believes they are "lying. They brought in the engineer because at that first meeting I beat them over the head with it, despite repeated California public records act requests.

"There is information they have that is just flat out not available to the public," he said, adding that it is not posted on the website or anywhere else.

At that second meeting, Smith said that the stakeholders were told it would cost from \$1.7 to \$6.7 million to "fix" the Mt. Murphy Bridge and that federal funds, which are being looked at to provide 100 percent of the money to "replace" the bridge, could not be used to rehabilitate the bridge. The Board of Supervisors, however, were told that federal funds could be used to fix it, resulting in con-

BRIDGE

flicting information.

Also at the second meeting of the stakeholders, Smith said the "criteria for alternatives" was explored and set up, but he said that the entire process already had a foregone conclusion.

"The whole idea for stakeholders, you would think, would be to get information from those who would be involved," he said, adding that a list of things unique to the local area was about the only information included in the criteria. In fact, the meeting itself was operated on the Delphi technique, which basically invites public participation and leads to the end result by a proficient group leader.

"The key tenet is that you break up into small groups and provide questions or ideas on notecards," said Smith. "It doesn't matter, though, because contrary information is omitted. The stakeholders had limited input and the public had none."

Smith said he is on record asking the CH2M Hill senior project manager, Leslie Bonneau, about the effect of public input on the critical Criteria Summary document. "So, if 500 people write you and say 'I don't want the new bridge,' it's gonna show up in here? That's what you're telling me?"

"No," answered Bonneau, indicating that public input has no effect on the project.

The third and final stakeholders meeting was held on Sept. 24 and resulted in a summary and the proposed "alternatives," which Smith said were not necessarily "agreed" upon by the stakeholders.

"The summary does make it sound like the stakeholders are for it (the demise of the bridge and rebuilding of a new one in a specific 'corridor')." he said. "(It also) states that the stakeholders asked questions; we didn't. We beat them over the head with it (the 'corridor' choices and alternatives). We didn't like it; we

"Any and all public action can and should take place at the Board of Supervisors meeting," he said. "The public needs to be informed and get involved."

wanted it changed, but they wouldn't change anything we recommended in the summary. No one agreed on anything.

"The screening criteria details are being kept from the public yet it forms the basis for everything that comes after it," he added. "I've been saying from day 1, why not build a skinny bridge (for traffic) and use the existing one for foot and bicycle traffic; they (the contractor and the county) will not talk about it," although at the Feb. 4 BOS meeting Supervisor Brian Veerkamp added a caveat to the motion that if "financially and structurally feasible, the county would like to retain the old structure as a pedestrian/cycling bridge."

"I believe (the county) does not want a maintenance problem (with the current bridge)," said Smith, adding that it is a historical structure and should not be destroyed. "They want to direct the flow of traffic to 'river right' and currently they can't, but as they acquire more property (particularly on the "Divide" side of the river, which Smith refers to as "river right"), they'll be able to do more. They are seizing land every chance they get. And (the county) just gave CH2M Hill another \$100,000 to keep going (on the bridge)."

According to Smith, there has been discussion on putting a competition kayaking course with bleachers at Henningsen-Lotus Park, but "they can't do it there because of the low flow." He added that they could, however, have that kind of course at Troublemaker, but it could require eminent domain land seizure, as could redirecting traffic across to "river right."

Smith said the next phase of the proposed changes for the Mt. Murphy Bridge is the Environmental Impact Study, and although the meeting is expected to be held in January 2015 at the Coloma Grange, but he said he would not be surprised to see it agendized for a BOS meeting in December.

The website for information regarding the Mt. Murphy Bridge and related documents that are made available by the county is edcgov.us/MtMurphyBridge. **2 of 8**

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1 Example of How Bridge has been manipulated!

Mt. Murphy Road Screening Criteria

September 10, 2014

Mt. Murphy Road Screening Criteria

Criteria	Performance Measures	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
Historic and Cultural												
H1	Minimize physical impacts to cultural/historic landmarks within the Mt. Murphy Corridor.	5	1	1	2	2	5	5	5	2	5	5
H2	Minimize physical impacts to American River recreation use (Baby Beaches) in Mt. Murphy Corridor.	2	4	4	4	4	1	3	4	4	5	5
H3	Minimize physical impacts to Marshall Gold Discovery Park.	2	1	1	3	3	5	1	4	2	5	5
Average Rating for Category		7.0	6.0	6.0	9.0	9.0	11.0	7.0	13.0	8.0	15.0	15.0
Community Character												
CC1	Maximize blending of bridge into existing setting.	2	4	4	4	4	2	2	1	4	1	2
CC2	Minimize disturbance to local vehicular circulation/mobility.	4	5	5	5	5	3	3	3	5	2	1
CC3	Maximize connectivity to walkways and trails for non-motorized travel.	5	5	4	5	5	3	3	3	5	2	1
Average Rating for Category		11.0	14.0	13.0	14.0	14.0	8.0	8.0	7.0	14.0	5.0	4.0
Access and Operations												
A1	Minimize impacts to peak season congestion along Hwy 49 through the Park.	1	1	1	1	1	5	1	4	1	5	5
A2	Minimize impacts to existing driveways.	1	3	5	5	5	1	5	3	3	3	1
Average Rating for Category		2.0	4.0	6.0	6.0	6.0	6.0	6.0	7.0	4.0	8.0	6.0
Construction												
C1	Minimize distance of detour route.	5	5	5	5	5	5	5	5	5	5	5
C2	Minimize noise/vibrations during construction to protect historic buildings. (Need to define which ones).	1	1	1	1	1	5	3	5	1	5	5
C3	Minimize construction activity close to residents and businesses.	4	2	2	3	3	1	5	2	2	2	1
C4	Minimize construction duration.	4	2	2	4	4	1	3	3	1	2	1
Average Rating for Category		14.0	10.0	10.0	13.0	13.0	12.0	16.0	15.0	9.0	14.0	12.0

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The way screening criteria works, all are equal. Therefore, destruction of the historic bridge and the Grange have the same weight as a 4 mile detour during construction. Performance measures and grading were NOT done by stakeholders. This is how the outcome has been rigged - corrupted to a pre-determined outcome!

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Mt. Murphy Road Screening Criteria

September 10, 2014

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Criteria	Performance Measures	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
Safety												
S1	Improve safety for motorized transportation crossing the river (bridge and approaches).	Safety characteristics defined as speed, sight distance, turning radius, lane width, barrier protection. 5=significantly improves safety for all design characteristics, 3=moderately improves safety, 1=does not address safety characteristics										
S2	Maximize safety for non-motorized transportation crossing the river (bridge and approaches).	Separation from motorized travel, connectivity to existing pedestrian facilities. 5=full separation from motorized travel with direct connection to existing bike/ped facilities, 3=partial/minimal separation from motorized travel, 1=no change from existing condition										
S3	Improve opportunities for emergency response access.	Directness to and from Mt. Murphy Road and Hwy 49, minimal risk of waiting at bridge to cross. 5=emergency access significantly improved, 3=emergency access minimally improved, 1=no improvement for emergency access										
S4	Minimize safety hazards for river users.	Clearance from structures/foundations for those using river and beach areas and location in river related to current and depth. 5=improves safety for users, 3=no change from current condition for users, 1=increases hazards for users.										
Average Rating for Category		15.0	15.0	12.0	15.0	12.0	12.0	15.0	17.0	15.0	14.0	8.0
Environmental Resources												
E1	Minimize impacts to viewshed from the bridge (focus on location and not bridge type). ²	Number of impacts to viewshed: 5= no major change in current viewshed, 3=impacts in one or two viewshed areas that can be addressed, 1=major impacts that significantly alter the existing viewshed..										
E2	Minimize impacts to viewshed of the bridge (focus on location and not bridge type). ²	Number of impacts to viewshed: 5= no major change in current viewshed, 3=impacts in one or two viewshed areas that can be addressed, 1=major impacts that significantly alter the existing viewshed..										
E3	Minimize impacts to wildlife habitat (turtle, eagle, river corridor wildlife). ³	Number of impacts to wildlife habitats: 5= no major impacts/improves habitat, 3=impacts in one or two habitats that can be addressed, 1=major impacts that cannot be or are difficult to address.										
Average Rating for Category		11.0	15.0	15.0	15.0	15.0	5.0	9.0	6.0	15.0	3.0	3.0
Right-Of-Way												
R1	Minimize impacts to private land owners. ⁴	Number of parcels required for R/W (partial takes included). 5=less than 3, 3=3-5, 1= more than 5										
R2	Minimize impacts to land owned by Marshall Gold Discovery State Park. ⁴	Number of acres required for R/W. 5=less than 1, 3=1 to 2, 1= more than 2										
Average Rating for Category		7.0	9.0	9.0	7.0	7.0	6.0	7.0	4.0	9.0	6.0	6.0
Project Alternative Estimate												
M1	Minimize cost of project to ensure full funding through the HBP program. ⁴	Planning level estimate (order of magnitude) 5= less than \$8M, 3=between \$8-\$20 M, 1=More than \$20 M.										
Average Rating for Category		3.0	3.0	3.0	3.0	3.0	1.0	3.0	3.0	3.0	3.0	1.0
Overall Corridor Rating (Perfect score = 110)		70.0	76.0	74.0	82.0	79.0	61.0	71.0	72.0	77.0	68.0	55.0

Notes:

- 1) Mt. Murphy Corridor is defined as the area on both sides of the river from Lotus Rd intersection to the bend in Hwy 49 upstream of Mt. Murphy Rd Bridge
- 2) Viewshed is defined as the aesthetic view or appearance of the corridor
- 3) Wildlife habitats are defined for turtles, eagles, and other aquatic species
- 4) Number of parcels required for R/W includes right of entry (ROE), temporary construction easements (TCE), as well as permanent R/W takes.
- 5) Aesthetics related to appearance of the river crossing (existing or new bridge).
- 6) Estimate must be less than \$20 million dollars to qualify for full funding from the HBP. Project estimates in excess of \$20 M are considered special category and required Caltrans approval to receive full funding from HBP.
- 7) The park includes property within the park boundaries as well as park facilities such as trails
- 8) The south end of Alternative 6 will be tied into the bike and pedestrian facilities in the Park. Signs will be required to direct bike/ped traffic off the bridge and on to the trails that lead into the Park.

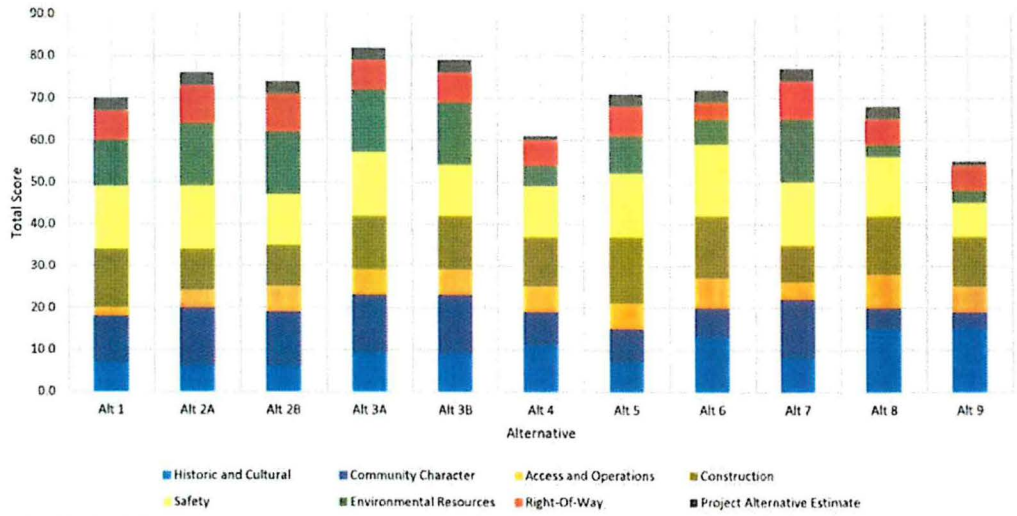
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Mt. Murphy Road Screening Criteria - Scores by Category

Criteria	Alt 1	Alt 2A	Alt 2B	Alt 3A	Alt 3B	Alt 4	Alt 5	Alt 6	Alt 7	Alt 8	Alt 9
Historic and Cultural	7.0	6.0	6.0	9.0	9.0	11.0	7.0	13.0	8.0	15.0	15.0
Community Character	11.0	14.0	13.0	14.0	14.0	8.0	8.0	7.0	14.0	5.0	4.0
Access and Operations	2.0	4.0	6.0	6.0	6.0	6.0	6.0	7.0	4.0	8.0	6.0
Construction	14.0	10.0	10.0	13.0	13.0	12.0	16.0	15.0	9.0	14.0	12.0
Safety	15.0	15.0	12.0	15.0	12.0	12.0	15.0	17.0	15.0	14.0	8.0
Environmental Resources	11.0	15.0	15.0	15.0	15.0	5.0	9.0	6.0	15.0	3.0	3.0
Right-Of-Way	7.0	9.0	9.0	7.0	7.0	6.0	7.0	4.0	9.0	6.0	6.0
Project Alternative Estimate	3.0	3.0	3.0	3.0	3.0	1.0	3.0	3.0	3.0	3.0	1.0
TOTAL SCORE (Perfect Score = 110)	70.0	76.0	74.0	82.0	79.0	61.0	71.0	72.0	77.0	68.0	55.0

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Total Score Contribution by Category



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Bridge and Roadway Width Summary²

Alternative	Alignment Location	Two Lanes (feet)	Two Shoulders (feet)	Two Sidewalks (feet)	Bike Facility Class	Total Width ⁵
1 ⁵	Downstream	24	10	12	2	46'-0"
2A ⁴	On Existing	24	10	12	2	46'-0"

MT. MURPHY ROAD BRIDGE PROJECT PHASE 1B -

ALTERNATIVES DEVELOPMENT SUMMARY - REVISED SEPTEMBER 1, 2014

2B ^{1,3,4}	On Existing	20	4	8 ¹	3	32'-0"
3A ⁴	Downstream Adjacent	24	10	12	2	46'-0"
3B ^{1,4}	Downstream Adjacent	20	4	8 ¹	3	32'-0"
4 ⁵	Upstream	24	10	12	2	46'-0"
5 ⁵	Downstream	24	10	12	2	46'-0"
6 ⁵	Downstream	24	10	12	2	46'-0"
7 ⁴	On Existing	24	10	12	2	46'-0"
8 ⁵	Downstream	24	10	12	2	46'-0"

Table 2

¹ Requires design exception for sidewalk less than 6'-foot minimum width

² Alternatives includes traffic calming features

³ Southern approach includes separated pedestrian bridges to mitigate impacts to existing structures

⁴ Requires removal of the existing bridge

⁵ Requires removal of the existing bridge unless sources of funding, other than HBP funding, can be found to repair and maintain the existing bridge.

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THE BALANCING ACT by Larry weitzman

Arrogance, incompetence and abuse of power.

This column's theme for the last several months has been about mismanagement within the Chief Administrator's Office and it goes right to the top. It all started with the climate of fear and the unfounded claims made by the county's Chief Administrative Officer. Then it went into the CAO's hiring practices in recruiting people who, by their past history, were clearly incompetent and perhaps with a little spoils system thrown in. Next it has gone to the huge budget deficits (\$25 million or more annually) that are becoming apparent because of an excess of hiring new employees, massive spending on outside consultants and recommending huge raises for county employees including the CAO and the Assistant Chief Administrative Officer. Now those deficits look to be even larger because of potentially overstated revenue projections, but that will be for a later column.

If you thought it couldn't get any worse, it has and it goes to the actions of the then-acting head of the Community Development Agency and now Assistant CAO, Kim Kerr, at the time they occurred. What could she have



Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts of the ACAO by simply ratifying her actions.

done that was so bad? How about authorizing contract change orders well beyond her authority and spending money without the required procedures and approval of the Board of Supervisors. And it just didn't happen once. According to county documents it happened on at least seven Capital Improvement Programs, including

projects like the U.S 50/Missouri Flat Road Interchange and several Green Valley Road improvements.

Pursuant to Section 20142 of the California Public Contract Code and conforming Board Of Supervisors Resolution 102-2012 passed on July 24, 2012, (it superseded BOS resolution 106-93), change orders subsequent to the award of a contract are limited in their amount to 10 percent of the original contract amount except when the original contract is in excess of \$250,000 which in that case the limit of total change orders is \$25,000 plus 5 percent of the original contract amount not to exceed \$210,000, no matter the original amount of the contract. Any contract less than \$50,000 has a \$5,000 change order cumulative limit. Actually, it is an easy concept to understand, except for our current Assistant CAO Kim Kerr, who either intentionally or negligently ignored the law. Either way there is no excuse.

These violations became public when a County of El Dorado Document Master Report, File No. 11-1196 enumerated the various violations of the Public Contract Code. In that Master Report, it lays out that these illegal Contract Change Orders totaled 48, as much as 48 times that the head of the CDA at the time issued 48 change orders that exceeded her statutory authority. Payments have been

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made on 36 of these illegally issued CCOs, but 12 are still outstanding and unpaid.

Those 48 illegal CCOs that were illegally authorized total \$1,295,559. Records show that most were signed by Kim Kerr as acting CDA Director but other county staff are involved, as each CCO requires at least four signatures starting with the Resident Engineer, Assistant Director, Director of Transportation and the (Acting) CDA Director.

Someone within the CAO's office (the CDA operates within the CAO's office) discovered these mistakes and without BOS retroactive approval, not only will these CCOs remain illegal, but the 12 remaining unpaid CCOs will remain unpaid without BOS ratification of the prior acts. But that doesn't excuse the actions of certain county official(s) who approved these CCOs without BOS approval.

There are two people upon which these illegal actions fall upon. The "buck" stops with ACAO, Kim Kerr, who headed the CDA during this period and the CAO herself, Terri Daly. They should know the rules as Resolution 102-2012 was passed on July 24, 2012, in open session by a 5-0 vote of the BOS and Terri Daly's name appears on the document attesting to the resolution. Daly and Kerr were well aware of the rules and laws governing change orders. But it looks like they didn't think these rules were very important as one or both of them violated the California Public Contract Code and BOS resolution 48 times.

Zebras don't lose their stripes and the modus operandi of ACAO Kim Kerr hasn't changed. Her slipshod management style as the recent city manager of the City of Ione is obviously apparent in her actions as EDC's ACAO. Kerr as Ione city manager failed to reconcile Ione's bank accounts for over two years and Amador County Grand Jury reports called her incompetent, saying that "the City Manager for the fiscal period 2007-2011 (Kim Kerr's tenure) did not demonstrate she possessed the proper qualifications and expertise to perform the duties required for that position." (See Balancing Act June 16, 2014, and Amador County Grand Jury Report 2012.)

Now comes the cover-up. It appears that the CAO plans to place an item on the next BOS calendar attempting to get retroactive approval for the acts

of the ACAO by simply ratifying her actions. It will be interesting if this item shows up under the consent calendar with Daly trying to slip it through and hiding it from the BOS and the public, just like Daly did during her tenure as Amador County CAO, sticking Amador County with a \$20 million lease they didn't need (see Balancing Act July 7, 2014). You see, Terri Daly is responsible for hiring Kim Kerr and giving her a raise in salary while knowing of her past "indiscretions" as city manager of Ione. Daly is responsible for Kim Kerr's actions as an employee of EDC.

Then there is the issue if these potential violations of the California Public Contract Code rise to the seriousness to cause an investigation by the district attorney. Public Officials are given the public trust and need to be held to a higher standard just as former District 2 Supervisor Ray Nutting was. His misdemeanor violations of the law cost him his job and a whole lot more.

In another twist of fate, it appears that Municipal Resources Group, a company that was hired for the sum of \$250,000 to eliminate the "climate of fear" and create a "Climate Action Plan" in EDC, hasn't been paid.

In a letter to the BOS it seems that CAO Terri Daly signed, pursuant to BOS approval and at her request, a contract of which she has neglected to pay invoices totaling \$63,356 for the months of July, August and September. The purpose of the contract was to address the alleged problems supposedly enumerated in the "Climate of Fear" study created by the law firm of Van Dermyden Maddux, a study which cost \$140,000.

The Balancing Act analysis of the Van Dermyden Maddux study said if there is a climate of fear in EDC government it starts and ends at the top, in the CAO's Office (see Balancing Act May 19 and June 2, 2014). The question becomes why wouldn't the CAO submit these invoices to the County Auditor for payment? Could the reason be that the CAO didn't like the preliminary information received from MRG. Perhaps they are pointing the finger in a direction Daly doesn't like, proving prior Balancing Act columns correct.

Thank you Terri Daly for flushing \$390,000 down the toilet looking for answers which you already knew by looking in the mirror.

Larry Weitzman is a resident of Rescue.

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